

**U.S. District Court
District of Connecticut (New Haven)
CIVIL DOCKET FOR CASE #: 3:17-cv-02073-VLB**

Protect Our Defenders et al v. Defense et al
Assigned to: Judge Vanessa L. Bryant
Cause: 05:552 Freedom of Information Act

Date Filed: 12/13/2017
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

Protect Our Defenders

represented by **Michael J. Wishnie**
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TERMINATED: 07/18/2018
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Plaintiff

Connecticut Veterans Legal Center

represented by **Michael J. Wishnie**
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ATTORNEY TO BE NOTICED

Aaron Paul Wenzloff
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TERMINATED: 07/18/2018
ATTORNEY TO BE NOTICED

V.

Defendant

Department of Defense

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Defendant

Department of Homeland Security

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Natalie Nicole Elicker
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ATTORNEY TO BE NOTICED

| Date Filed | # | Docket Text |
|------------|----------|---|
| 12/13/2017 | <u>1</u> | COMPLAINT against All Defendants (Filing fee \$400 receipt number ACTDC-4642317.), filed by Protect Our Defenders, Connecticut Veterans Legal Center. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G, # <u>8</u> Exhibit H, # <u>9</u> Exhibit I, # <u>10</u> Exhibit J, # <u>11</u> Exhibit K, # <u>12</u> Exhibit L, # <u>13</u> Exhibit M, # <u>14</u> Exhibit N)(Wishnie, Michael) (Entered: 12/13/2017) |
| 12/13/2017 | | Judge Vanessa L. Bryant added. (Oliver, T.) (Entered: 12/13/2017) |
| 12/13/2017 | | Request for Clerk to issue summons as to All Defendants. (Wishnie, Michael) (Entered: 12/13/2017) |
| 12/13/2017 | <u>2</u> | ELECTRONIC FILING ORDER – PLEASE ENSURE COMPLIANCE WITH COURTESY COPY REQUIREMENTS IN THIS ORDER. Signed by Judge Vanessa L. Bryant on 12/13/2017.(Bozek, M.) (Entered: 12/15/2017) |
| 12/13/2017 | <u>3</u> | STANDING PROTECTIVE ORDER. Signed by Judge Vanessa L. Bryant on 12/13/2017.(Bozek, M.) (Entered: 12/15/2017) |
| 12/13/2017 | <u>4</u> | ORDER RE: Judge's Chambers Practices. Counsel are directed to read and comply with the Chambers Practices and Standing Orders prior to filing any document. So ordered. Signed by Judge Vanessa L. Bryant on 12/13/2017.(Bozek, M.) (Entered: 12/15/2017) |
| 12/15/2017 | <u>5</u> | NOTICE TO COUNSEL/SELF-REPRESENTED PARTIES : Counsel or self-representing parties initiating or removing this action are responsible for serving all parties with attached documents and copies of <u>2</u> Electronic Filing Order, <u>4</u> Order Re: Chambers Practices, Request to Issue Summons, <u>1</u> Complaint, filed by Connecticut Veterans Legal Center, Protect Our Defenders, and <u>3</u> Standing Protective Order. Signed by Clerk on 12/15/2017.(Bozek, M.) (Entered: 12/15/2017) |
| 12/15/2017 | <u>6</u> | ELECTRONIC SUMMONS ISSUED in accordance with Fed. R. Civ. P. 4 and LR 4 as to *Department of Defense, Department of Homeland Security* with answer to complaint due within *30* days. Attorney *Michael J. Wishnie* *Jerome N. Frank Legal Services – Wall St, Yale Law School* *127 Wall Street* *New Haven, CT 06511*. (Bozek, M.) (Entered: 12/15/2017) |
| 01/17/2018 | <u>7</u> | NOTICE of Appearance by Natalie Nicole Elicker on behalf of Department of Defense, Department of Homeland Security (Elicker, Natalie) (Entered: 01/17/2018) |
| 01/17/2018 | <u>8</u> | MOTION for Extension of Time until 2/19/18 and 3/21/18 to file a Proposed Schedule (2/19/18), and Answer or Respond (3/21/18) to <u>1</u> Complaint, by Department of Defense, Department of Homeland Security. (Elicker, Natalie) (Entered: 01/17/2018) |
| 01/18/2018 | <u>9</u> | CERTIFICATE OF SERVICE by Connecticut Veterans Legal Center, Protect Our Defenders (Wishnie, Michael) (Entered: 01/18/2018) |

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| 01/18/2018 | <u>10</u> | Memorandum in Opposition re <u>8</u> MOTION for Extension of Time until 2/19/18 and 3/21/18 <i>to file a</i> Proposed Schedule (2/19/18), and Answer or Respond (3/21/18) to <u>1</u> Complaint, filed by Connecticut Veterans Legal Center, Protect Our Defenders. (Wishnie, Michael) (Entered: 01/18/2018) |
| 01/18/2018 | <u>11</u> | MOTION for Leave to Appear Law Student Interns <i>Meghan Brooks, Alyssa Peterson, Giovanni Sanchez</i> by Connecticut Veterans Legal Center, Protect Our Defenders. (Wishnie, Michael) (Entered: 01/18/2018) |
| 01/18/2018 | <u>12</u> | NOTICE of Appearance by Aaron Paul Wenzloff on behalf of Connecticut Veterans Legal Center, Protect Our Defenders (Wenzloff, Aaron) (Entered: 01/18/2018) |
| 01/19/2018 | 13 | ORDER granting <u>11</u> Motion for Leave to Appear Law Student Interns <i>Meghan Brooks, Alyssa Peterson, Giovanni Sanchez</i> . Certificate of Good Standing due by 3/20/2018. Signed by Judge Vanessa L. Bryant on 01/19/2018. (Lee, E.) (Entered: 01/19/2018) |
| 01/19/2018 | 14 | ORDER: The Clerk is directed to remove the Certificate of Good Standing deadline as it does not apply to law student interns. Signed by Judge Vanessa L. Bryant on 01/19/2018. (Lee, E.) (Entered: 01/19/2018) |
| 01/19/2018 | 15 | ORDER granting in part and denying in part <u>8</u> Motion for Extension of Time until 2/19/18 and 3/21/18 <i>to file a</i> Proposed Schedule (2/19/18), and Answer or Respond (3/21/18) to <u>1</u> Complaint. In considering the parties' positions, the Joint 26(f) Report is due on or before 02/19/2018 and the response to the Complaint is due on or before 03/05/2018 . Signed by Judge Vanessa L. Bryant on 01/19/2018. (Lee, E.) (Entered: 01/19/2018) |
| 01/19/2018 | | Set deadlines per 15 Order: Rule 26 Meeting Report due by 2/19/2018; Answer deadline updated to 3/5/2018. (Shafer, J.) (Entered: 01/22/2018) |
| 02/15/2018 | <u>16</u> | Joint MOTION for Extension of Time until to and including February 23, 2018 <i>to file a Joint Proposed Schedule</i> 15 Order on Motion for Extension of Time, by Connecticut Veterans Legal Center, Protect Our Defenders. (Wenzloff, Aaron) (Entered: 02/15/2018) |
| 02/16/2018 | 17 | ORDER granting <u>16</u> Motion for Extension of Time to file a Joint Proposed Schedule for good cause shown. In contemplation of the parties' joint motion, the Court vacates its initial order requiring a full Joint 26(f) Report and directs the parties to file a proposed scheduling order that satisfies D. Conn. Civ. L. R. 16(b) and 26(f)(3) and the need for efficiency. Signed by Judge Vanessa L. Bryant on 02/16/2016. (Lee, E.) (Entered: 02/16/2018) |
| 02/23/2018 | <u>18</u> | MOTION for Joint Proposed Scheduling Order by Connecticut Veterans Legal Center, Protect Our Defenders. (Attachments: # <u>1</u> Text of Proposed Order)(Wenzloff, Aaron) (Entered: 02/23/2018) |
| 03/05/2018 | <u>19</u> | ORDER granting <u>18</u> Motion for Joint Proposed Scheduling Order. The Court adopts the Joint Proposed Scheduling Order. SCHEDULING ORDER: All deadlines including the internal disclosure and status report deadlines are set forth in the attached scheduling order. Defendant's dispositive motion is due on or before 06/25/2018 and Plaintiff's cross-motion and opposition is due on or before 08/15/2018 . Signed by Judge Vanessa L. Bryant on 03/05/2018. (Lee, E.) (Entered: 03/05/2018) |
| 03/05/2018 | <u>20</u> | ANSWER to <u>1</u> Complaint, with Affirmative Defenses by Department of Defense, Department of Homeland Security.(Elicker, Natalie) (Entered: 03/05/2018) |
| 03/05/2018 | | Set deadlines: first Joint Status Report due by 3/12/2018; second due 4/6/2018 per <u>19</u> Scheduling Order. (Shafer, J.) Modified to correct date on 3/8/2018 (Shafer, J.). (Entered: 03/06/2018) |
| 03/08/2018 | | Docket Entry Correction: second joint status report due April 6, 2018 per <u>19</u> Order. (Shafer, J.) (Entered: 03/08/2018) |
| 03/12/2018 | <u>21</u> | STATUS REPORT by Department of Defense, Department of Homeland Security. (Elicker, Natalie) (Entered: 03/12/2018) |

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| 03/16/2018 | <u>22</u> | RESPONSE re <u>21</u> Status Report filed by Connecticut Veterans Legal Center, Protect Our Defenders. (Wenzloff, Aaron) (Entered: 03/16/2018) |
| 04/06/2018 | <u>23</u> | Joint STATUS REPORT by Connecticut Veterans Legal Center, Protect Our Defenders. (Wenzloff, Aaron) (Entered: 04/06/2018) |
| 05/21/2018 | <u>24</u> | MOTION for Extension of Time until June 20, 2018 <i>for</i> Production of Documents and for Limited Modification of Scheduling Order by Department of Defense, Department of Homeland Security. (Elicker, Natalie) (Entered: 05/21/2018) |
| 05/22/2018 | 25 | ORDER granting <u>24</u> Motion for Extension of Time until June 20, 2018 for Production of Documents and for Limited Modification of Scheduling Order. Signed by Judge Vanessa L. Bryant on 05/22/2018. (Lee, E.) (Entered: 05/22/2018) |
| 06/11/2018 | <u>26</u> | NOTICE of Appearance by Carolyn Aiko Ikari on behalf of Department of Defense, Department of Homeland Security (Ikari, Carolyn) (Entered: 06/11/2018) |
| 06/20/2018 | <u>27</u> | Consent MOTION for Revised Scheduling Order by Department of Defense, Department of Homeland Security. (Ikari, Carolyn) (Entered: 06/20/2018) |
| 06/21/2018 | 28 | ORDER denying <u>27</u> Consent MOTION for Revised Scheduling Order. In the past six months since this case was filed, the parties have sought four extensions of time. The Court has wasted considerable time reviewing and granting the parties' request just to be asked to consider another. The parties are directed to meet and confer concerning trial preparation and propose a schedule to which they can meet and to which they will be held. Signed by Judge Vanessa L. Bryant on 06/21/2018. (Lee, E.) (Entered: 06/21/2018) |
| 06/28/2018 | <u>29</u> | MOTION for Reconsideration re 28 Order on Motion for Order., by Department of Defense, Department of Homeland Security. (Attachments: # <u>1</u> Memorandum in Support)(Ikari, Carolyn) (Entered: 06/28/2018) |
| 06/29/2018 | 30 | ORDER denying as moot <u>29</u> Motion for Reconsideration re 28 Order on Motion for Order as the motion appears to be based on a misinterpretation of the Court's Order, Dkt. 28. That order establishes the inefficiency of the parties' repeated requests for extension of time. The Court denied the motion to the extent Defendants sought to amend the scheduling order without conferring with opposing counsel. The parties must confer and agree to a schedule where the parties <u>can actually meet the deadlines they propose</u> with respect to document production, dispositive motions, and trial—all of which are necessary for case management. The proposed scheduling order is due on or before 07/13/2018 . Signed by Judge Vanessa L. Bryant on 06/29/2018. (Lee, E.) (Entered: 06/29/2018) |
| 07/13/2018 | <u>31</u> | Joint MOTION for <i>Revised Scheduling Order</i> by Connecticut Veterans Legal Center, Protect Our Defenders. (Wishnie, Michael) (Entered: 07/13/2018) |
| 07/16/2018 | 32 | ORDER granting in part and denying in part <u>31</u> Joint MOTION for <i>Revised Scheduling Order</i> . The motion for summary judgment shall be due on or before 10/05/2018 . If no summary judgment motion is filed, the parties' Joint Trial Memorandum ("JTM") is due on or before 11/06/2018 . If a summary judgment motion is filed, the JTM is due on or before 06/06/2019 and a bench trial will occur in the month of July 2019 in Courtroom Three, 450 Main St., Hartford, CT before Judge Vanessa L. Bryant. The parties are directed to <u>closely</u> follow Chambers' Practices <u>4</u> —including the deadlines and format of filings—when completing and filing the JTM, which shall be accompanied by the motions <i>in limine</i> . The parties' exhibit binders and electronic exhibits, as well as any courtroom technology requests, must be submitted no later than two weeks before the month of trial. The Court also requests that any courtesy copies sent to Chambers be printed from the docket and contain the header of the Court's electronic filing system. The Court adopts all other deadlines proposed by the parties. Signed by Judge Vanessa L. Bryant on 07/16/2018. (Lee, E.) (Entered: 07/16/2018) |
| 07/16/2018 | | Set Deadlines/Hearings: Dispositive Motions due by 10/5/2018; JTM due by 11/6/2018; Bench Trial set for 12/18/2018 at 09:30 AM and 6/19/2019 09:30 AM in Courtroom Three, 450 Main St., Hartford, CT before Judge Vanessa L. Bryant. (Lee, E.) (Entered: 07/16/2018) |

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| 07/17/2018 | <u>33</u> | MOTION for Aaron Wenzloff to Withdraw as Attorney by Connecticut Veterans Legal Center, Protect Our Defenders. (Wenzloff, Aaron) (Entered: 07/17/2018) |
| 07/18/2018 | 34 | ORDER granting <u>33</u> MOTION for Aaron Wenzloff to Withdraw as Attorney as Plaintiffs are represented by other counsel. Attorney Aaron Paul Wenzloff terminated. Signed by Judge Vanessa L. Bryant on 07/18/2018. (Lee, E.) (Entered: 07/18/2018) |
| 07/23/2018 | 35 | VACATED: AMENDED SCHEDULING ORDER: The Court clarifies certain deadlines which may appear unclear on the docket. The bench trial dates of 12/18/2018 and 6/19/2019 are vacated to the extent they set precise dates for the bench trial to occur. The motion for summary judgment shall be due on or before 10/05/2018 . If no summary judgment motion is filed, the parties' Joint Trial Memorandum ("JTM") is due on or before 11/06/2018 and a bench trial will occur in the month of January 2019 . If a summary judgment motion is filed, the JTM is due on or before 06/06/2019 and a bench trial will occur in the month of July 2019 in Courtroom Three, 450 Main St., Hartford, CT before Judge Vanessa L. Bryant. The parties are directed to closely follow Chambers' Practices <u>4</u> —including the deadlines and format of filings—when completing and filing the JTM, which shall be accompanied by the motions <i>in limine</i> . The parties' exhibit binders and electronic exhibits, as well as any courtroom technology requests, must be submitted no later than two weeks before the month of trial. The Court also requests that any courtesy copies sent to Chambers be printed from the docket and contain the header of the Court's electronic filing system. The Court adopts all other deadlines proposed by the parties. Signed by Judge Vanessa L. Bryant on 07/23/2018. (Lee, E.) Modified on 6/5/2019 (Shafer, J.). (Entered: 07/23/2018) |
| 08/02/2018 | <u>36</u> | NOTICE of Appearance by Michael J. Wishnie on behalf of Connecticut Veterans Legal Center, Protect Our Defenders (Wishnie, Michael) (Entered: 08/02/2018) |
| 10/05/2018 | <u>37</u> | MOTION for Summary Judgment by Department of Defense, Department of Homeland Security. Responses due by 10/26/2018 (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Statement of Material Facts, # <u>3</u> Table of Contents of Exhibits to Summary Judgment, # <u>4</u> Exhibit 1—Production List, # <u>5</u> Exhibit 2—Herrington Decl., # <u>6</u> Exhibit 3—Masterson Decl., # <u>7</u> Exhibit 4—McIntosh Decl., # <u>8</u> Exhibit 5—Jones Decl., # <u>9</u> Exhibit 6—Hartsell Decl., # <u>10</u> Exhibit 7—Jones Supp. Decl., # <u>11</u> Exhibit 8—Air Force Vaughn, # <u>12</u> Exhibit 9A—Green Tags Email, # <u>13</u> Exhibit 9B—BCMR Orientation, # <u>14</u> Exhibit 9C—BCMR Panel Member Orientation, # <u>15</u> Exhibit 9D—BCMR Training Slides Legal, # <u>16</u> Exhibit 9E—Email re Boards Authority, # <u>17</u> Exhibit 9F—AFBCMR Manual, # <u>18</u> Exhibit 9G—Green Tags Email, # <u>19</u> Exhibit 9H—122_Whistleblower Act Protection, # <u>20</u> Exhibit 9I—Talking Paper, # <u>21</u> Exhibit 10—Talley Supp. Decl., # <u>22</u> Exhibit 11—Masterson Decl., # <u>23</u> Exhibit 12—Mansfield Decl., # <u>24</u> Exhibit 13—Mansfield Supp. Decl., # <u>25</u> Exhibit 14—Army Vaughn, # <u>26</u> Exhibit 15—Yost Decl., # <u>27</u> Exhibit 16—Navy Marine Vaughn, # <u>28</u> Exhibit 17—Talley Decl., # <u>29</u> Exhibit 18—Lawrence Decl., # <u>30</u> Exhibit 19—Brown Decl., # <u>31</u> Exhibit 20—Foehrkolb Decl.)(Elicker, Natalie) (Entered: 10/05/2018) |
| 10/15/2018 | | Set deadline as to <u>37</u> MOTION for Summary Judgment. Response due by 10/30/2018 per Dkt. 32 Order. (Shafer, J.) (Entered: 10/15/2018) |
| 10/29/2018 | <u>38</u> | MOTION for Leave to Appear Law Student Intern <i>Kathryn Pogin</i> by Connecticut Veterans Legal Center, Protect Our Defenders. (Wishnie, Michael) (Entered: 10/29/2018) |
| 10/30/2018 | 39 | ORDER granting <u>38</u> Motion for Leave for Law Student Intern to Appear. Signed by Judge Vanessa L. Bryant on 10/30/2018. (Shafer, J.) (Entered: 10/30/2018) |
| 10/30/2018 | <u>40</u> | Memorandum in Opposition re <u>37</u> MOTION for Summary Judgment filed by Connecticut Veterans Legal Center, Protect Our Defenders. (Attachments: # <u>1</u> Statement of Material Facts, # <u>2</u> Exhibit 1, # <u>3</u> Exhibit 1—A, # <u>4</u> Exhibit 1—B, # <u>5</u> Exhibit 1—C, # <u>6</u> Exhibit 2, # <u>7</u> Exhibit 2—A, # <u>8</u> Exhibit 2—B, # <u>9</u> Exhibit 2—C, # <u>10</u> Exhibit 2—D, # <u>11</u> Exhibit 2—E, # <u>12</u> Exhibit 2—F, # <u>13</u> Exhibit 2—G, # <u>14</u> Exhibit 2—H)(Wishnie, Michael) (Entered: 10/30/2018) |
| 11/09/2018 | <u>41</u> | Consent MOTION for Extension of Time to File Response/Reply as to <u>37</u> MOTION for Summary Judgment until 12/04/2018 by Department of Defense, Department of Homeland Security. (Elicker, Natalie) (Entered: 11/09/2018) |

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| 11/13/2018 | <u>42</u> | ORDER granting <u>41</u> Motion for Extension of Time to File Response/Reply re <u>37</u> MOTION for Summary Judgment. Response/Reply due by 12/4/2018 . Signed by Judge Vanessa L. Bryant on 11/13/2018. (Bryan, Kelsey) (Entered: 11/13/2018) |
| 11/13/2018 | <u>43</u> | MOTION to Withdraw <i>Law Student Intern Giovanni Sanchez</i> by Connecticut Veterans Legal Center, Protect Our Defenders. (Wishnie, Michael) (Entered: 11/13/2018) |
| 11/14/2018 | <u>44</u> | ORDER granting <u>43</u> Motion to Withdraw Appearance of Law Student Intern Giovanni Sanchez as Plaintiffs are represented by other counsel. <i>See</i> D. Conn. L. R. 7(e). Signed by Judge Vanessa L. Bryant on 11/14/2018. (Bryan, Kelsey) (Entered: 11/14/2018) |
| 12/03/2018 | <u>45</u> | Joint MOTION for Extension of Time to File Response/Reply , <i>in light of federal office closures</i> , as to <u>37</u> MOTION for Summary Judgment until 12/14/18 for defendants' response; 1/10/19 for plaintiffs' sur-reply by Department of Defense, Department of Homeland Security. (Elicker, Natalie) (Entered: 12/03/2018) |
| 12/04/2018 | <u>46</u> | ORDER granting <u>45</u> Joint Motion for Extension of Time for good cause shown. Defendants' response/reply is now due by 12/14/2018 and, should Plaintiffs determine that a sur-reply is necessary, it is due by 1/10/2019 . Signed by Judge Vanessa L. Bryant on 12/4/2018. (Bryan, Kelsey) (Entered: 12/04/2018) |
| 12/04/2018 | | Reset deadline as to <u>37</u> MOTION for Summary Judgment. Response now due by 12/14/2018 per Dkt. 46 Order. (Shafer, J.) (Entered: 12/04/2018) |
| 12/14/2018 | <u>47</u> | MOTION for Leave to File Excess Pages by Department of Defense, Department of Homeland Security. (Elicker, Natalie) (Entered: 12/14/2018) |
| 12/14/2018 | <u>48</u> | REPLY to Response to <u>37</u> MOTION for Summary Judgment filed by Department of Defense, Department of Homeland Security. (Attachments: # <u>1</u> Table of Contents of Exhibits to Reply in Support of Motion for Summary Judgment, # <u>2</u> Exhibit 9A2, # <u>3</u> Exhibit 9B2, # <u>4</u> Exhibit 9C2, # <u>5</u> Exhibit 9D2, # <u>6</u> Exhibit 9E2, # <u>7</u> Exhibit 9F2, # <u>8</u> Exhibit 9G2, # <u>9</u> Exhibit 9I2, # <u>10</u> Exhibit 21 – S. Jones 2d Supp. Decl., # <u>11</u> Exhibit 22 – R. Sono Decl.)(Elicker, Natalie) (Entered: 12/14/2018) |
| 12/17/2018 | <u>49</u> | ORDER granting <u>47</u> Motion for Leave to File Excess Pages. Signed by Judge Vanessa L. Bryant on 12/17/2018. (Bryan, Kelsey) (Entered: 12/17/2018) |
| 01/09/2019 | <u>50</u> | RESPONSE re <u>48</u> Reply to Response to Motion, (<i>Sur-Reply</i>) filed by Connecticut Veterans Legal Center, Protect Our Defenders. (Wishnie, Michael) (Entered: 01/09/2019) |
| 06/05/2019 | <u>51</u> | ORDER vacating 35 Amended Scheduling Order. The Court will enter a revised scheduling order after ruling on the pending motion for summary judgment if appropriate. Signed by Judge Vanessa L. Bryant on 6/5/2019. (Bryan, Kelsey) (Entered: 06/05/2019) |